**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE**

**TUESDAY, THE 27TH MARCH 2007 / 6TH CHAITHRA 1929**

**WP(C).No. 10138 of 2007(F)**
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**PETITIONER:**
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**RAZIYA, W/O.ABDUL SHUKKUR, KALLINGAL HOUSE, MUCHIKKAL, TIRUR, MALAPPURAM DISTRICT.**

**BY ADV. SRI.K.RAMACHANDRAN**
**SMT.R.MEERA**

**RESPONDENTS:**
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**1. TIRUR MUNICIPALITY, REPRESENTED BY ITS SECRETARY, MUNICIPAL OFFICE, P.O.TIRUR, MALAPPURAM DISTRICT.**

**2. MUNICIPAL COUNCIL, TIRUR MUNICIPALITY, REPRESENTED BY ITS CHAIRMAN, DO. DO.**

**BY ADV.SRI.T.L.ANATHASIVAN**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**PIUS.C.KURIAKOSE .J**

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**W.P.(C) No.10138 of 2007**

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**Dated this the 27th day of March 2007**

**JUDGMENT**

This writ petition has been filed a lady who is conducting business in room No.6/134 of the Tirur Municipality complaining that Ext.P2 appeal submitted by her against Ext.P1 notice of the Municipality was disposed of by the Municipality by Ext.P3 order without hearing her at all. Sri.T.L.Ananthasivan Standing counsel for the Municipality submits that the directions sought for in this writ petition is to be dispose of as Ext.P2 in accordance with law only and that the writ petition has virtually become infructuous, since Ext. P3 will show that the same has been issued disposing of this Ext.P2. Mr.T.L.Ananthasivan counsel further submitted that under Ext.P1, the petitioner was informed of as many as 4 defects and the petitioner had not chosen to cure those defects and therefore the Municipal Council had no action other than to dispose of the appeal.

SriK.Ramachandran counsel for the petitioner submits that a careful reading of the appeal itself will show that all the four defects in Ext.P1 have been cured but the petitioner could not bring the above aspect of the matter to the Municipal Council's notice since he was not called for a hearing. I find force in the submission of Mr. Ramachandran that if the

petitioner had been given an opportunity for making his submissions on the appeal perhaps the council would not have rejected the appeal, on the ground that the defects noted in Ext.P1 were not cured. Ext.P3 was not preceded by a hearing with notice to the petitioner. Ext.P3 is therefore quashed and I direct the Municipality to take Ext.P2 appeal back on files and issue notice to the petitioner for hearing , hear the petitioner and pass fresh orders on Ext.P2. Fresh orders as directed above, will be passed within one month of receiving a copy of this judgment. Decision taken as directed above shall be communicated to the petitioner. Petitioner will be permitted to maintain the status-quo obtaining as on today as regards the conduct of business in room No. 6/134.

**PIUS.C.KURIAKOSE,JUDGE**

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